

## § 2101. Definitions

In this chapter:

(1) **CONTRACTING OFFICER.**—The term “contracting officer” means an individual who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to the contract.

(2) **CONTRACTOR BID OR PROPOSAL INFORMATION.**—The term “contractor bid or proposal information” means any of the following information submitted to a Federal agency as part of, or in connection with, a bid or proposal to enter into a Federal agency procurement contract, if that information previously has not been made available to the public or disclosed publicly:

(A) Cost or pricing data (as defined in section 2306a(h) of title 10 with respect to procurements subject to that section and section 3501(a) of this title with respect to procurements subject to that section).

(B) Indirect costs and direct labor rates.

(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

(D) Information marked by the contractor as “contractor bid or proposal information”, in accordance with applicable law or regulation.

(3) **FEDERAL AGENCY.**—The term “Federal agency” has the meaning given that term in section 102 of title 40.

(4) **FEDERAL AGENCY PROCUREMENT.**—The term “Federal agency procurement” means the acquisition (by using competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by a Federal agency using appropriated funds.

(5) **OFFICIAL.**—The term “official” means—

(A) an officer, as defined in section 2104 of title 5;

(B) an employee, as defined in section 2105 of title 5; and

(C) a member of the uniformed services, as defined in section 2101(3) of title 5.

(6) **PROTEST.**—The term “protest” means a written objection by an interested party to the award or proposed award of a Federal agency procurement contract, pursuant to subchapter V of chapter 35 of title 31.

(7) **SOURCE SELECTION INFORMATION.**—The term “source selection information” means any of the following information prepared for use by a Federal agency to evaluate a bid or proposal to enter into a Federal agency procurement contract, if that information previously has not been made available to the public or disclosed publicly:

(A) Bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices before public bid opening.

(B) Proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices.

(C) Source selection plans.

(D) Technical evaluation plans.

(E) Technical evaluations of proposals.

(F) Cost or price evaluations of proposals.

(G) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.

(H) Rankings of bids, proposals, or competitors.

(I) Reports and evaluations of source selection panels, boards, or advisory councils.

(J) Other information marked as “source selection information” based on a case-by-case determination by the head of the agency, the head’s designee, or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3727.)

### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
2101(1) .....	41:423(f)(5).	Pub. L. 93–400, § 27(f), as added Pub. L. 100–679, § 6(a), Nov. 17, 1988, 102 Stat. 4063; Pub. L. 101–189, title VIII, § 814(a)–(d)(1), Nov. 29, 1989, 103 Stat. 1495; Pub. L. 101–510, title XIV, § 1484(f)(6), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 102–25, title VII, § 705(i), Apr. 6, 1991, 105 Stat. 121; Pub. L. 103–355, title VIII, § 8301(e), Oct. 13, 1994, 108 Stat. 3397; Pub. L. 104–106, title XLIII, § 4304(a), Feb. 10, 1996, 110 Stat. 662.
2101(2) .....	41:423(f)(1).	
2101(3) .....	41:423(f)(3).	
2101(4) .....	41:423(f)(4).	
2101(5) .....	41:423(f)(7).	
2101(6) .....	41:423(f)(6).	
2101(7) .....	41:423(f)(2).	

## § 2102. Prohibitions on disclosing and obtaining procurement information

(a) **PROHIBITION ON DISCLOSING PROCUREMENT INFORMATION.**—

(1) **IN GENERAL.**—Except as provided by law, a person described in paragraph (3) shall not knowingly disclose contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

(2) **EMPLOYEE OF PRIVATE SECTOR ORGANIZATION.**—In addition to the restriction in paragraph (1), an employee of a private sector organization assigned to an agency under chapter 37 of title 5 shall not knowingly disclose contractor bid or proposal information or source selection information during the 3-year period after the employee’s assignment ends, except as provided by law.

(3) **APPLICATION.**—Paragraph (1) applies to a person that—

(A)(i) is a present or former official of the Federal Government; or

(ii) is acting or has acted for or on behalf of, or who is advising or has advised the Federal Government with respect to, a Federal agency procurement; and

(B) by virtue of that office, employment, or relationship has or had access to contrac-

tor bid or proposal information or source selection information.

(b) **PROHIBITION ON OBTAINING PROCUREMENT INFORMATION.**—Except as provided by law, a person shall not knowingly obtain contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3728.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2102(a) .....	41:423(a).	Pub. L. 93-400, §27(a), (b), as added Pub. L. 100-679, §6(a), Nov. 17, 1988, 102 Stat. 4063; Pub. L. 101-189, title VIII, §814(a)-(d)(1), Nov. 29, 1989, 103 Stat. 1495; Pub. L. 101-510, title XIV, §1484(l)(6), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 102-25, title VII, §705(i), Apr. 6, 1991, 105 Stat. 121; Pub. L. 103-355, title VIII, §8301(e), Oct. 13, 1994, 108 Stat. 3397; Pub. L. 104-106, title XLIII, §4304(a), Feb. 10, 1996, 110 Stat. 659; Pub. L. 107-347, title II, §209(d)(4), Dec. 17, 2002, 116 Stat. 2930.
2102(b) .....	41:423(b).	

### § 2103. Actions required of procurement officers when contacted regarding non-Federal employment

(a) **ACTIONS REQUIRED.**—An agency official participating personally and substantially in a Federal agency procurement for a contract in excess of the simplified acquisition threshold who contacts or is contacted by a person that is a bidder or offeror in that Federal agency procurement regarding possible non-Federal employment for that official shall—

(1) promptly report the contact in writing to the official's supervisor and to the designated agency ethics official (or designee) of the agency in which the official is employed; and

(2)(A) reject the possibility of non-Federal employment; or

(B) disqualify himself or herself from further personal and substantial participation in that Federal agency procurement until the agency authorizes the official to resume participation in the procurement, in accordance with the requirements of section 208 of title 18 and applicable agency regulations on the grounds that—

(i) the person is no longer a bidder or offeror in that Federal agency procurement; or

(ii) all discussions with the bidder or offeror regarding possible non-Federal employment have terminated without an agreement or arrangement for employment.

(b) **RETENTION OF REPORTS.**—The agency shall retain each report required by this section for not less than 2 years following the submission of the report. The reports shall be made available to the public on request, except that any part of a report that is exempt from the disclosure requirements of section 552 of title 5 under subsection (b)(1) of that section may be withheld from disclosure to the public.

(c) **PERSONS SUBJECT TO PENALTIES.**—The following are subject to the penalties and administrative actions set forth in section 2105 of this title:

(1) An official who knowingly fails to comply with the requirements of this section.

(2) A bidder or offeror that engages in employment discussions with an official who is subject to the restrictions of this section, knowing that the official has not complied with paragraph (1) or (2) of subsection (a).

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3728.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2103(a) .....	41:423(c)(1).	Pub. L. 93-400, §27(c), as added Pub. L. 100-679, §6(a), Nov. 17, 1988, 102 Stat. 4063; Pub. L. 101-189, title VIII, §814(a)-(d)(1), Nov. 29, 1989, 103 Stat. 1495; Pub. L. 101-510, title XIV, §1484(l)(6), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 102-25, title VII, §705(i), Apr. 6, 1991, 105 Stat. 121; Pub. L. 103-355, title VIII, §8301(e), Oct. 13, 1994, 108 Stat. 3397; Pub. L. 104-106, title XLIII, §4304(a), Feb. 10, 1996, 110 Stat. 660.
2103(b) .....	41:423(c)(2).	
2103(c) .....	41:423(c)(3), (4).	

### § 2104. Prohibition on former official's acceptance of compensation from contractor

(a) **PROHIBITION.**—A former official of a Federal agency may not accept compensation from a contractor as an employee, officer, director, or consultant of the contractor within one year after the official—

(1) served, when the contractor was selected or awarded a contract, as the procuring contracting officer, the source selection authority, a member of the source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which that contractor was selected for award of a contract in excess of \$10,000,000;

(2) served as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of \$10,000,000 awarded to that contractor; or

(3) personally made for the Federal agency a decision to—

(A) award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of \$10,000,000 to that contractor;

(B) establish overhead or other rates applicable to one or more contracts for that contractor that are valued in excess of \$10,000,000;

(C) approve issuance of one or more contract payments in excess of \$10,000,000 to that contractor; or

(D) pay or settle a claim in excess of \$10,000,000 with that contractor.

(b) **WHEN COMPENSATION MAY BE ACCEPTED.**—Subsection (a) does not prohibit a former official of a Federal agency from accepting compensation from a division or affiliate of a contractor that does not produce the same or similar products or services as the entity of the contractor